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MEMORANDUM ENDORSED

August 11, 2008

Via Facsmilie: 212.805.4268

The Honorable Magistrate Judge  
Gabriel W. Gorenstein  
United States District Court  
Southern District of New York  
500 Pearl Street.  
New York, New York 10007

***RE: Gregory v. Niagara Credit Solutions, SDNY 07 CV 7825 (RJS) (GWG)***

Dear Honorable Judge Gorenstein:

This letter application is being made pursuant to the Court Order dated August 8, 2008 denying plaintiff's request for a pre-motion conference as untimely. This application is being made pursuant to the third sentence in paragraph 9 of the Scheduling Order requesting an extension of time to complete or move with respect to outstanding discovery items.

The initial Scheduling Order requires that all non-expert discovery be complete by July 1, 2008. Plaintiff served the Defendant with Interrogatories, Demand for Documents, and Request for Admissions on March 6, 2008. Defendant served responses, albeit incomplete, on or about April 30, 2008. On May 6, 2008, plaintiff's counsel contacted the defendants counsel, Mr. Arthur Sanders, via email, identifying several responses that were inadequate and requested supplemental responses. The next day, May 7, 2008, in response to Mr. Sanders email, I further clarified, the requests and provided detailed explanations and valid legal arguments for my requests. On May 27, 2008, I sent an email to Mr. Sanders indicating that I had not had any substantive response from him in regard to the outstanding Discovery. On June 11, 2008, I sent a second good faith email notification to Mr. Sanders stating that I had not received any response to the outstanding/supplemental discovery requests. I finally received a response from Mr. Sanders, on or about June 12, 2008 and we scheduled a time to speak the following day.

The June 13, 2008, conversation with Counsel, Arthur Sanders, Esq., at 3:30pm lasted

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approximately one half hour and raised outstanding discovery concerns as indicated in previous email communications, which were responded to mainly with possible settlement proposals, and Counsel advising that he would speak to his client, the Defendant herein, and get back to me.

Defendants counsel also advised that he would be going on vacation for two weeks, until July 15, 2008, but would be able to email me responses from his client, if applicable. It was also agreed between counsel for the parties that if no conclusion could be reached between the parties, the Court would be notified on or before July 1, 2008, the deadline set by the Scheduling Order and a request for intervention or mediation would be requested. Defendant's counsel was fully aware of the request, as is evidenced by his lack of opposition to the request. Plaintiff's rights would be extremely prejudiced, should she be denied the opportunity to address the outstanding discovery items at this time.

On June 30, 2008, absent a substantive response from the Defendant with regard to outstanding discovery, and pursuant to the June 13 telephone conversation, a final email was sent to Defendant's counsel in regards to same, and a letter was sent to the Court dated July 1, 2008, inadvertently to Judge Sullivan's Chambers requesting Court intervention and requesting a pre-motion conference. Said request was made timely pursuant to the scheduling order. A telephone conference was set by the Court for July 18 via telephone and the parties were instructed to make said application detailing each of the outstanding issues in writing. Said written request was denied as untimely.

Accordingly, the Plaintiff respectfully requests a brief extension, pursuant to the Court Order dated August 8, 2008 and modified on August 11, 2008, and in accordance with Par 2.A of the Court's individual rules, on the deadline to complete or move with respect to the remaining Discovery items as outlined in Plaintiff's letter to this Court dated August 8, 2008.

The Courts consideration with this matter is greatly appreciated.

The Court will accept the August 7, 2008 letter as timely. Defendant shall deliver or fax a point-by-point response to the August 7 letter to the Court on or before August 20, 2008. A conference shall be held to resolve the dispute on August 27, 2008 at 3:45 p.m. in Courtroom 17-A, 500 Pearl Street, New York, New York

truly yours,

J. Goldstein

SO ORDERED: DATE: 8/13/2008  
  
GABRIEL W. GORENSTEIN  
UNITED STATES MAGISTRATE JUDGE

CC: Arthur Sanders, ESQ. Via facsimile: 646.454.2104

Attorney for Defendant